

islature, merely suggesting that frequent changes in this respect are embarrassing to all concerned.

Respectfully submitted.

J. D. THOMAS,
Pres. Board of Education.

On motion of Senator Houston, the message, with accompanying documents, was referred to the Committee on Finance, and the same ordered to appear in the journals of to-day.

On motion of Senator Harris, the Senate adjourned until 10 o'clock a. m. to-morrow.

THIRTIETH DAY.

SENATE CHAMBER, }
AUSTIN, TEXAS, February 13, 1883. }

The Senate met pursuant to adjournment.
Lieutenant-Governor Martin in the chair.

Roll called. Quorum present.

Prayer by the Chaplain, Rev. Dr. Smoot.

On motion of Senator Traylor the reading of the journals of yesterday were dispensed with, and the same adopted.

Senator Fleming presented a petition from the citizens of Eastland county, requesting the passage of a law to confine all convicts within the walls of the State penitentiary.

Referred to Committee on Penitentiaries.

Also, a petition from the bar of Breckenridge, Stephens county, Texas, protesting against any change being made in their judicial district.

Referred to Committee on Judicial Districts.

Senator Terrell presented a petition of B. D. Bassford, asking relief or assistance for support as an old Texas veteran, and one who furnished his own equipments, provisions, etc., while protecting the frontier. He is now old and needy, and asks assistance.

Referred to Committee on State Affairs.

Senator Fleming presented a petition from the citizens of Howard county, asking a law governing the disposition of school lands in said county and section, so as to make them attractive to good settlers seeking to invest in homes in Texas.

Referred to Committee on Public Lands.

Senator Terrell, chairman of Judiciary Committee No. 1, submitted the following reports:

COMMITTEE ROOM,
AUSTIN, February 12, 1883.

Hon. Marlon Martin, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred substitute for House joint resolution No. 5, "Granting leave of absence to certain district and county judges of the State of Texas," have carefully examined the same, and instruct me to report the same back with the recommendation that it do not pass, for the reason that it does not appear that the notice required by the Constitution before the passage of such acts has been given, and that without such notice, in the judgment of your committee, the resolution, so far as it applies to the county judges, would be unconstitutional, and because a general act to apply to all such cases has passed the Senate, and because no permission is necessary to authorize district judges to absent themselves from the State.

All of which is respectfully submitted.

TERRELL, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 12, 1883.

Hon. Marlon Martin, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate bill No. 197, entitled "An act to amend article 4290 of the Revised Civil Statutes," have carefully examined the same, and instruct me to report the same back with the recommendation that it do not pass. The effect of this bill is to provide that no deed shall be recorded conveying real estate unless all taxes on such real estate

shall have been paid, and the deed, when presented for record, must be accompanied by a certificate to that effect. In the judgment of your committee such a provision in the law would beget delay, confusion and trouble, and fail to secure any useful purpose to compensate. The laws to enforce collections should be perfected without embarrassing transfers of title.

All of which is respectfully submitted.

TERRELL, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 12, 1883.

Hon. Marlon Martin, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate bill No. 235, entitled "An act to amend articles 2903 and 2907 Revised Civil Statutes," have carefully examined the same; and instruct me to report the same back with the recommendation that it do not pass. The object of this bill is to change the long established rule that actions for personal injuries die with the plaintiff, and to provide that they shall survive to the executor or administrator, and that the recovery shall be for the benefit of the husband, wife, children, parents or creditors of the deceased. Such change is not, in the judgment of your committee, necessary.

All of which is respectfully submitted.

TERRELL, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 12, 1883.

Hon. Marlon Martin, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate bill No. 233, entitled "An act to amend articles 4611 and 4612 of the Revised Civil Statutes," have carefully examined the same, and instruct me to report the same back with the recommendation that it do not pass.

This bill is intended to provide that cattle and hide inspectors shall be appointed by the commissioners' court in certain counties, instead of being elected by the voters of the county in the law. In the judgment of your committee such a change is not necessary, as the same voters must elect the commissioners' court that elect the hide inspector, and they can be as safely trusted in the one instance as in the other.

All of which is respectfully submitted.

TERRELL, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 12, 1883.

Hon. Marlon Martin, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate bill No. 234, entitled "An act to be entitled 'an act authorizing writs of distress warrant, attachment and sequestration, and citations to be issued by justices of the peace in whose precinct the property, or part thereof, about to be seized, is situated,'" have carefully examined the same, and instruct me to report the same back with the recommendation that it do not pass.

The object of this bill is sufficiently indicated by the caption, and the legislation is not, in the judgment of your committee, necessary. The evils that would often result from the proposed change would not compensate for the annoyance and hardships that would often follow the enforcement of such a law.

All of which is respectfully submitted.

TERRELL, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 13, 1883.

Hon. Marlon Martin, President of the Senate:

The Senate joint resolution No. 27, proposes the payment of a poll tax for the benefit of public free schools as a qualification to vote in this State. The undersigned respectfully dissent from the adverse report made thereon by the Committee on Constitutional Amendments. The joint resolution proposes to limit the elective franchise to those who pay a poll tax at least thirty days before voting, to be evidenced by the receipt of the tax collector, which shall be stamped as "voted" when the vote is cast, and then returned to the owner. It exempts from such payment of taxes the soldiers of the Mexican war, and of the Texas revolution, and "those, who from age, infirmity, or physical disability, shall be unable to earn a support."

Those who object to the proposed amendment do so upon the ground that it requires, in effect, a property qualification to vote. The reverse is true; for in express terms it proposes to repeal the property qualification already in the Constitution of this State, and extend the right of free suffrage to all "who from age, infirmity, or physical disability, are unable to earn a support."

Section 1, of article 4, of the Constitution of Texas, provides: "The following classes of persons shall not vote in this State, viz: All paupers supported by the county." No matter how intelligent or patriotic that pauper may be (nor does it matter in what battle for his country he was disabled), he cannot vote, because the curse of poverty is on him. The joint resolution proposes to correct this, and to wipe from the Constitution that property qualification.

But it goes further, and requires all those who are able to earn an honest living to do something for the support of the government, while enjoying its protection and benefits. It requires each citizen, whose children are being educated by the taxes paid by other men, to contribute a poll tax of less than two dollars, to help in that laudable work. To pay so small a sum is within the power of every able bodied man, and though its payment by him is but a small evidence that he takes an interest in public affairs, it is some evidence. A requirement to pay it harmonizes our system of State government, with the theory, old as the revolution of '76, that "taxation and representation should go hand in hand." This was the battle cry of the first revolution.

The undersigned cannot subscribe the theory that all the burdens of government should be visited alone on those whose industry has accumulated property. The profligate and vicious enjoy equally with the industrious the protection of the laws, the free education of their children, and the administration of justice, and they should not jeopardize by their votes the excellency of those laws, unless they contribute something to support government, and thus show an interest in its administration.

The joint resolution does not propose to disfranchise those who fail to pay a property tax, for the simple reason that property when taxed, can be seized by the tax collector and sold, and payment can be thus compelled.

The Comptroller's report shows that the school poll tax, delinquent and uncollected, for the year 1882, was over *ninety-two thousand dollars*. That amount would furnish four months' instruction to twenty thousand children of those delinquents.

If the proposed change in the Constitution should have no other effect than to induce those who should have paid that tax, to pay it in full, it will relieve, to that extent, the industrious element in society, whose property is taxed to make up the deficiency.

The character of those who should have paid that delinquent poll tax cannot be disguised. They consist chiefly of the thriftless, idle and semi-vagrant element of society of both races, whose number, as shown by the above figures, is alarming. They are often the fathers of children for whose education others are taxed, and use the elective franchise reckless of results, contributing nothing to support the government; its stability for them has no charms, and on election day they are the pliant tools of designing men. In many places they are so numerous that our best citizens will not become candidates for positions of trust, because they will not resort to the means deemed necessary to secure the element known as "the floating vote."

The joint resolution proposes that payment of the poll tax shall be made at least thirty days before the election. Thus some security is found in the fact that no one would attempt to control the vote of a corrupt man by advancing money to pay his poll tax thirty days in advance of his vote. It proposes also, that the collector's certificate of the tax payment, shall be stamped when the vote is cast, and this affords security against fraudulent repeating.

The tax collector of any county can furnish startling revelations concerning the character of these delinquent tax payers. They often represent the extremes of society. The bankrupt husband, living in luxury, pays an ad valorem tax on the property of his wealthy wife, and laughs at the effort to collect from *him* a poll tax. The poor negro who has but one horse is compelled to pay it, for its collection can be enforced by the sale of his horse; while the vicious and reckless of both races, who own nothing, and constitute the most active element at elections, escape its payment altogether.

If a property qualification is feared as likely at some time to follow the adoption of the proposed amendment, it is respectfully suggested that the State Constitution in article 11, section 10, already contains it. It is there provided that no one but a tax payer in a city or town can vote to levy a tax for school purposes. If a system of local taxation for schools shall be extended to rural districts, the same rule must be adopted, or property would be confiscated under the taxing power, by the votes of those who have children and own nothing. It is believed that all of your committee concede this to be true, and favor such a tax in school districts.

The undersigned cannot subscribe to the doctrine that the payment of a property tax is necessary to qualify one to vote in a city or school district, and yet not even a poll tax should be required of him who votes for governor and State officers; unless, it be true, that the good of society is more involved in local elections than in gen-

eral elections, where the higher interests of the lives, liberty and property of all the people of the whole State are involved.

The proposition contained in the joint resolution is not new, and is recognized in the constitutions of nearly all of the best governed States.

In Georgia the citizen cannot vote unless he has paid all the taxes due to the State. (Constitution of 1858).

The Constitution of Tennessee prohibits every citizen from voting who has not paid a poll tax. (Constitution of 1870, article 4).

In New Hampshire no one can vote who does not pay taxes to support the government, and this has been the law since 1798.

In New Jersey, as in Texas, no pauper can vote.

In Pennsylvania no man can vote who has not paid a State or county tax at least one month before the election.

In Rhode Island no one can vote who is not "really and truly possessed of real estate of the value of one hundred and thirty-four dollars, above all incumbrances," and his deed must have been recorded ninety days before the election.

In Connecticut the voter must be of good moral character, and must have paid a county tax before he offers to vote. (Constitution of 1837.)

The tendency to relieve the ballot box from the incubus of vice and ignorance is shown by the constitutions of other States.

In Massachusetts the voter must be able to write his name and read in the English language the constitution of his State, while Missouri, Colorado and Florida fix a period in the near future, after which an educational qualification shall be required.

Whilst the undersigned do not advocate a property qualification, it is respectfully submitted that liberty is only permanent when regulated by a pure and well governed ballot, and that the union of communism and democracy has, through all time, when successful, culminated in despotism the most terrible.

There is no error concerning government more fallacious than the belief that elections or the ballot are the sole basis of liberty.

Though liberty requires elections, yet when they are not controlled by intelligence and patriotism, they become its most terrible enemy.

Those who achieved our independence were more jealous than we of their privileges, and when new territories were organized, they suffered no one to vote unless he had a fixed interest in the soil. The act of Congress of July 13, 1787, organizing the North-western Territory, now covered by Ohio, Illinois and Indiana, permitted no one to vote at a territorial election unless he owned fifty acres of land. (Sec. 10.)

The men who made this law were the companions of Washington in achieving independence, and staked their fortunes and lives on the doctrine that "taxation and representation should go hand in hand."

The joint resolution proposes no such extreme qualification as Jefferson, Madison and the fathers of democracy imposed on the voters in territories. It requires no property tax, but a poll (or head) tax, and the advocates of manhood suffrage who fear it, must place a poor estimate on that manhood which rebels at being compelled to pay less than two dollars a year to help the State educate its children.

The industrious of both races would, in the judgment of the undersigned, gladly now ingraft the change on the Constitution, if it were submitted to them.

The proposition has been twice canvassed in the senatorial district, embracing the capital of the State, and approved by overwhelming majorities. With a firm confidence in the intelligence and patriotism of the laboring and property holding voters of Texas, the undersigned dissent from the report of the committee, and recommend the passage of the joint resolution that the people may vote upon the same.

A. W. TERRELL,
J. R. FLEMING,
B. GIBBS,
F. L. JOHNSTON,
JOHN A. PEACOCK,
GEO. PFEUFFER,
A. K. STRATTON, JR.

The following message was received from the House:

AUSTIN, February 13, 1883.

Mr. President:

I am instructed to inform your honorable body that the following committee has been appointed on the disagreement between the two houses on Senate bill No. 39: Messrs. Taylor, Tilson and Adams of Trinity.

J. W. BOOTH,
Chief Clerk.

Senator Martin, chairman of Committee on Engrossed Bills, submitted the following report:

COMMITTEE ROOM.
AUSTIN, February 13, 1883.

Hon. Marion Martin, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and compared Senate bill No. 10, being "An act to repeal an act entitled 'an act to prescribe the requisites of indictments in certain cases,' approved March 26, 1881," except as to indictments and criminal prosecutions pending at the time this act takes effect."

Also, Senate bill No. 42, being "An act to amend chapter 3, title 17, of the Penal Code, by adding another article relating to trespass upon enclosed lands, and to punish the same."

Also, Senate bill No. 103, being "An act to amend section 7 of 'an act to give effect to section 2, article 9, of the Constitution, regulating the manner of removing and locating county seats, and to provide for the location of county seats in organized counties when no county seat has been created by existing law,' approved April 10, 1879," and find the same correctly engrossed.

MARTIN, Chairman.

Senator Pope offered the following resolution:

WHEREAS, The Eighteenth Legislature has been in session for more than thirty (30) days, and but little progress has been made in legislating upon many important subjects demanded by the people; therefore,

Resolved, That after to-day the Senate hold two (2) sessions daily, the morning session to commence at 9:30 a. m. and close at 12:30 p. m., and the evening session to commence at 2 p. m. and close at 4:30 p. m.

Senator Davis offered the following amendment:

"Amend by striking out the time for adjournment."

Accepted.

Resolution, as amended, lays over, under rules, one day.

On motion of Senator Terrell, Senator Pope was added to Judiciary Committee No. 1, also, to Committee on Constitutional Amendments.

Senator Davis offered the following resolution:

WHEREAS, The copies of the laws of the Sixteenth and Seventeenth Legislatures required to be reprinted cannot be furnished for the use of the Senate at this session; therefore, be it

Resolved, That the Sergeant-at-Arms be instructed to purchase a sufficient number to supply each Senator with copies of the same, at a cost of not exceeding fifty cents per copy.

Adopted.

Senator Stratton asked permission to withdraw a bill introduced by him yesterday, for the incorporation of the city of Galveston.

Granted.

Senator Jones introduced a bill to amend sections 7, 14, 21, 33, 35, 36, 40 and 45, of "An act incorporating the city of Houston, in Harris county, approved April 21, A. D. 1879," and "sections 23 and 31 of said act as amended by an act of the Legislature of the State of Texas, approved March 9, A. D. 1881," and substituting the following sections therefor.

Referred to Committee on State Affairs.

Also, a bill entitled "An act to amend article 704, chapter 6, of the Penal Code of the State of Texas."

Referred to Judiciary Committee No. 2.

Senator Gooch introduced a bill to be entitled "An act to amend article 1077, of chapter 3, title 15, of the Code of Criminal Procedure, relating to fees paid for holding inquests."

Referred to Judiciary Committee No. 2.

Also, joint resolution proposing an amendment to article 5 of the State Constitution, diminishing the number of terms of county courts for criminal business.

Referred to Committee on Constitutional Amendments.

Senator Pfeuffer, by request, introduced a bill to be entitled "An act making an appropriation for the purchase of the portraits of the Presidents and Governors of Texas."

Referred to Committee on State Affairs.

Senator Gibbs, by request, introduced a bill to be entitled "An act authorizing the State Firemen's Association

to erect a monument in the capitol grounds, in the city of Austin."

Referred to Committee on Public Buildings and Grounds.

Senator Stratton, by request, introduced a bill to be entitled "An act to authorize the Gulf Pier and Harbor Company, of Galveston; Texas, to construct a protected pier, or protected piers and harbor in the open gulf, opposite the city of Galveston, and to grant certain lands, rights, uses and privileges in aid of said enterprise."

Referred to Committee on State Affairs.

Senator Fleming introduced a bill to be entitled "An act to amend the Revised Civil Statutes of the State of Texas, by adding thereto articles 2909a and 2909b."

Referred to Judiciary Committee No. 1.

Senator Gibbs introduced a bill entitled "An act forbidding the employment, by any State officer, at the expense of the State, of any person related to such State officer."

Referred to Committee on State Affairs.

Senator Traylor moved to suspend rules and take up substitute House bills Nos. 95 and 190, to be entitled "An act to provide for the purchase of a site for and the establishment, location and construction of a branch asylum in North Texas for the care and treatment of the insane, and to make an appropriation therefor."

Adopted.

He also moved that the Senate refuse to recede from its amendments, and that a free conference committee be asked for.

Senator Davis called for a division of question, and moved that Senate recede from amendment to first section, about locating at Mineral Wells.

(Hon. A. W. Houston, President pro tem., in chair.)

The Senate refused to recede from the amendments, and the chair appointed Senators Harris, Taylor and Martin as free conference committee on said bill, etc.

Senator Davis moved to reconsider the vote refusing to recede from House amendments.

Lost.

The President laid before the Senate the substitute for Senate bills Nos. 25, 59, 67, 124 and 154, for the sale of school and other lands, which was, the unfinished business pending on adjournment yesterday, the motion to recommit being the question.

After full discussion the pending bill was recommitted to Committee on Public Lands by the following vote:

YEAS—17.

Cooper,	Gibbs,	Peacock,
Davis,	Harris,	Perry,
Evans,	Johnson of Collin,	Pfeuffer,
Farrar,	Jones,	Pope,
Fleming,	Kleberg,	Stratton.
Getzendaner,	Martin,	

NAYS—10.

Collins,	Johnston of Shelby,	Shannon,
Fowler,	King,	Terrell,
Gooch,	Matlock,	Traylor.
Houston,		

Senator Peacock moved to reconsider the vote just taken. (The President in the chair.)

Senator Johnston of Shelby moved the previous question.

Motion seconded, and main question ordered, by the following vote:

YEAS 17.

Cooper,	Houston,	Peacock,
Farrar,	Johnston of Shelby,	Perry,
Fleming,	Jones,	Shannon,
Fowler,	King,	Terrell,
Getzendaner,	Kleberg,	Traylor.
Gooch,	Matlock,	

NAYS—9.

Davis, Evans, Harris,	Johnson of Collin, Martin, Pfeuffer,	Pope, Randolph, Stratton.
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Senator Pope moved a call of the Senate.

Senator Houston raised the point of order that after the main question was ordered the call was out of order.

Point of order sustained, when Senator Pope appealed from the decision of the chair.

The chair, in its ruling, was sustained by the following vote:

YEAS—25.

Collins, Cooper, Evans, Farrar, Fleming, Fowler, Getzendaner, Gooch, Harris,	Houston, Johnson of Collin, Johnston of Shelby, Jones, King, Kleberg, Martin, Matlock,	Peacock, Perry, Pfeuffer, Randolph, Shannon, Stratton, Terrell, Traylor.
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NAYS—2.

Davis,	Pope.
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Senator Peacock's motion to reconsider the vote to recommit the pending bill to the committee, etc., was then lost by the following vote:

YEAS—13.

Collins, Cooper, Fowler, Gooch, Houston,	Johnston of Shelby, King, Martin, Matlock,	Peacock, Shannon, Terrell, Traylor.
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NAYS—14.

Davis, Evans, Farrar, Fleming, Getzendaner,	Harris, Johnson of Collin, Jones, Kleberg, Perry,	Pfeuffer, Pope, Randolph, Stratton.
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Senator Peacock then moved to commit the pending bill to a committee of the whole Senate.

Senator Houston raised the point of order that this motion was out of order, as the bill had already been recommitteed to a committee of the Senate, and was not now before the body.

Point of order sustained.

Senator Gooch offered the following resolution:

Resolved, That the Committee on Public Lands is instructed to prepare, as soon as practicable, a bill containing the following provisions, among others:

1. The bill shall contain provisions both for sale and lease of the school land.
2. The land shall not sell for less than \$2.00 for unwatered land, \$2.50 for watered land, and \$5.00 for timber land not suitable for lumber.
3. The timber useful for lumber shall be sold, and the land reserved.
4. Pasture lands not timbered shall be leased, by competition, for not less than three cents an acre, nor for longer terms than twenty years.
5. The land shall be sold on forty years' time.
6. The rate of interest shall be 4 per cent.
7. The principal on deferred payments shall not be paid for ten years after sale.
8. Corporations shall not be permitted to own more than 640 acres of the land.
9. Forfeiture of the land shall be provided for without judicial ascertainment.
10. The amount of land that may be purchased by any one person shall be confined to one section of farming land, or seven sections of unwatered pasture land.
11. The land shall be sold to actual settlers only.
12. Actual settlers shall have the preference of purchase.

Senator Davis made the point of order that the resolution was not proper under the rules, etc.

Point of order overruled.

Senator Fleming moved to refer the pending resolution to the Committee on Public Lands, with the bill just referred to said committee.

Senator Pfeuffer moved to adjourn, which was lost by the following vote:

YEAS—9.

Cooper, Davis, Farrar,	Fleming, Getzendaner, Houston,	Jones, King, Pfeuffer.
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NAYS—17.

Collins, Evans, Fowler, Gooch, Harris, Johnson of Collin,	Kleberg, Martin, Matlock, Peacock, Perry, Pope,	Randolph, Shannon, Stratton, Terrell, Traylor.
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Senator Fleming's motion to refer the resolution of Senator Gooch to the Committee on Public Lands, was lost by the following vote:

YEAS—8.

Davis, Evans, Farrar,	Fleming, Johnson of Collin, Jones,	Pfeuffer, Pope.
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NAYS—18.

Collins, Cooper, Fowler, Getzendaner, Gooch, Harris,	Houston, King, Kleberg, Martin, Matlock, Peacock,	Perry, Randolph, Shannon, Stratton, Terrell, Traylor.
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Senator Davis moved a call of the Senate.

Call sustained.

Absent, Senators Gibbs, Johnston of Shelby and Pope.

Senator Terrell moved to suspend the call so as to make a motion to go into a committee of the whole to-morrow after the morning call, to consider the pending resolution of Senator Gooch.

Adopted, and call suspended.

Senator Terrell then moved that the further consideration of the pending resolution be postponed until to-morrow after the morning call, and made the special order for that hour, to be considered as already ordered by the Senate.

Adopted.

On motion of Senator Kleberg, the First Assistant Secretary, C. M. Boynton, Esq., was excused for the week, in consequence of pressing business.

On motion of Senator Davis, the Senate adjourned until 10 o'clock a. m., to-morrow.

THIRTY-FIRST DAY.

SENATE CHAMBER, }
AUSTIN, TEXAS, February 14, 1883. }

Senate met pursuant to adjournment.

Lieutenant-Governor Martin in the chair.

Roll called. Quorum present.

Prayer by the Chaplain, Rev. Dr. Smoot.

On motion of Senator Peacock, the reading of the journal of yesterday was dispensed with, and the same adopted.

Senator Matlock presented a petition from the citizens of Baylor county, asking for the passage of a special act to prevent the sale and giving away of vinous, malt, and intoxicating liquors, within five miles of the center of the public square of the town of Seymour, Baylor county.

Referred to Judiciary Committee No. 2.

Senator Randolph presented a memorial from 91 of the citizens of Leon county, asking for the submission of a constitutional amendment on prohibition.